IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

MFA.No. 1375 of 1996()

OPMV.1271/1990 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD
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APPELLANT: (6TH RESPONDENT IN M.V.O.P)

THE ORIENTAL INSURANCE COMPANY LTD., PALAKKAD,
REP. BY THE ADMINISTRATIVE OFFICER, MOTOR THIRD PARTY
CLAIMS CELL, M.G.ROAD, ERNAKULAM, COCHIN - 682 035.

BY ADV. SRI.M.JACOB MURICKAN

RESPONDENTS: (PETITIONER & RESPONDENTS 1 TO 5 IN M.V.O.P)
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1. KUNJUMANI, S/O.PONNU, KANHIRANKODE,
POTHUNDI , NEMMARA, PALAKKAD DISTRICT.

2. ANANDAKRISHNAN ALIAS SELVAN, S/O.PONNAN,
MANANGODE, NEMMARA, PALAKKAD DISTRICT.

3. KANNAN, S/O.DANDAPANY CHETTIAR, VALLANGY, NEMMARA,
PALAKKAD DISTRICT.

4. R.GOPALAKRISHNAN, S/O.RAMAN NAIR, MUNDARATHMADOM,
VENGANALLOOR, CHELAKKARA P.O., THRISSUR DISTRICT.

5. V.DANDAPANI CHETTIAR, S/O.VELAYUIDHAN CHETTIAR,
VALLANGY, NEMMARA, PALAKKAD DISTRICT.

6. THE UNITED INDIA INSURANCE CO. LTD., SHAPE BUILDING,
II FLOOR, KUNNAMKULAM BRANCH.

BY ADV. SRI.H.SIVARAMAN
SRI.P.SANKARANKUTTY NAIR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.1375 of 1996

Dated this the 23rd July, 2007.

J U D G M E N T

The 6th respondent, Insurer, in O.P.(M.V.) No.1271/1990, on the file of the Motor Accidents Claims Tribunal, Palakkad, is the appellant. Appellant challenges the finding of the Tribunal regarding the negligence, quantum of compensation, and also the direction to the Tribunal to pay the amount to the injured, and then to claim the same from the Insurer.

2. I do not find any reason to interfere with the finding of the Tribunal that accident occurred due to the negligence of the driver of the vehicle. The quantum of compensation awarded is also reasonable. The main challenge in this appeal is regarding the direction of the Tribunal to the insured to pay the amount and to recover the same from the appellant, Insurer. It is a trite law that in

cases of violation of policy conditions, the Insured will have to pay the amount and recover it from the insurer. So, there is no merit in this appeal and the appeal is only to be dismissed.

In the result, the appeal is dismissed.

C.M.P.No.4895/1996 in M.F.A.No.1375/1996 is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No.1375 of 1996

J U D G M E N T

Dated: 23rd July, 2007.